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County of Los Angeles CHIEF EXECUTIVE OFFICE

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July 8, 2008

The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

Dear Supervisors:

**DEPARTMENT OF REGIONAL PLANNING: APPROVE AMENDMENTS TO
COUNTY CODE TITLE 21 (SUBDIVISIONS) AND TITLE 22 (PLANNING AND
ZONING) AND THE IMPLEMENTATION PROGRAM
RELATING TO A HEARING EXAMINER PROCEDURE
(ALL SUPERVISORIAL DISTRICTS)
(3 VOTES)**

SUBJECT

An ordinance that establishes a hearing examiner procedure, which increases opportunities for public participation, enables efficient public hearings, and improves feedback to project applicants. The hearing examiner would hold an initial public hearing on projects with regional impacts prior to the Regional Planning Commission public hearing.

IT IS RECOMMENDED THAT YOUR BOARD:

1. Approve the Implementation Program relating to the establishment of a hearing examiner procedure (Attachment 1)
2. Indicate the intent to adopt the proposed amendments to Titles 21 and 22 of the County Code regarding the hearing examiner procedure (Attachment 2)
3. Instruct County Counsel to prepare a final ordinance for adoption.

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PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

On April 3, 2007, your Board approved a motion instructing the Director of Planning and County Counsel to prepare an ordinance amending Title 21 (Subdivision) and Title 22 (Planning and Zoning) that establishes a hearing examiner procedure (Attachment 3) and an implementation program.

The draft ordinance establishes a new procedure to enable a hearing examiner to conduct public hearings and receive testimony in the community. These hearings will be convenient and accessible to the residents and businesses in the unincorporated areas of Los Angeles County.

Subsequent to the local public hearing, the hearing examiner prepares a report that includes recommendations for consideration by the Regional Planning Commission (Commission) at a later hearing. The hearing examiner's report will also include a detailed summary of the community's comments and concerns regarding the proposal, as well as technical issues within the purview of other departments, such as Public Works and Fire. In the majority of instances, it is likely the hearing examiner will be able to address technical issues based on Subdivision Committee reports; the Subdivision Committee is comprised of the Departments of Public Works, Fire, Regional Planning, Public Health, and Parks and Recreation.

If the hearing examiner is unable to respond to a comment or concern at the community public hearing, he or she will work with the case planner, the environmental document consultant, and the respective departments to address the concern. These issues will be addressed in the hearing examiner's report to the Commission. The Commission's public hearing is held in the main hearing room in downtown Los Angeles. The Commission considers the hearing examiner's recommendation and makes a determination.

The hearing examiner procedure will only be applicable to matters in which the Commission has original review and decision-making authority including legislative matters (i.e., zone changes, plan amendments, and ordinance amendments) and major land use projects. Projects below that threshold will continue to be subject to review and disposition through the existing hearing officer process with appeal to the Commission, if needed.

Although the Commission currently hears the above types of cases, it is only regulated by Departmental Policy. Incorporating these thresholds within the Zoning Ordinance will add clarity and transparency to the review authority for projects.

The Department of Regional Planning (Department) formed an internal Task Force to develop an implementation program to ensure a smooth transition to the new Hearing Examiner procedure. The Task Force was made up of senior planners from the public information counter, field offices, case processing sections, and the unincorporated areas liaison. The proposed implementation program prepared by the Task Force includes the hearing examiner procedure, as well as necessary procedural changes to the existing case management process to complement the hearing examiner procedure.

The implementation program includes the gradual shift of the existing hearing officer duties to the hearing examiner. Currently, hearing officer duties are collateral duties performed by staff at the Section Head or Assistant Administrator's level. The new procedure establishes three full-time hearing examiners, which will enable the Department to consolidate case review functions into the hearing examiner positions. With the shift, both hearing examiner and hearing officer duties are assumed by the three new positions.

The case planners within the current planning sections will still play a critical role in preparing the staff reports for the hearing examiners and hearing officers. The procedures will be as follows:

Hearing Examiner Process

- Case planner prepares draft staff report.
- Case planner and hearing examiner attend community public hearing; the case planner presents the case to the community.
- Hearing examiner prepares draft findings, conditions, and recommendations based on the case planner's staff report and comments and concerns from the community.
- The final staff report, including the hearing examiner's draft findings, conditions, and recommendations are forwarded to the Commission.
- Hearing examiner presents the case to the Commission at a public hearing.
- Hearing examiner, with the assistance of the case planner, prepares the final findings and conditions.

Hearing Officer Process

- Case planner prepares draft staff report which includes draft findings and conditions.
- Case planner presents the case at the hearing officer's public hearing.
- Based upon direction from the hearing officer, the case planner prepares the final findings and conditions for the hearing officer's signature.

The new procedure will be phased-in during the first 12 months with a status report and an evaluation completed and submitted to your Board and the Chief Executive Officer at the end of the first year. Depending on the evaluation, additional staff and budget may be recommended as a part of a subsequent proposed budget to ensure such procedure is fully implemented and effective. The evaluation and budget proposals will be for all impacted County departments.

Implementation of Strategic Plan Goals

The Countywide Strategic Plan directs that we provide Service Excellence (Goal 1), Organizational Effectiveness (Goal 3), and Community Services (Goal 6). Approval of the proposed amendments to County Code and implementation of a Hearing Examiner procedure will provide these services in an accurate, efficient, timely, and responsive manner and will support the Department in meeting these goals.

FISCAL IMPACT/FINANCING

Funding in the amount of \$300,000 for the hearing examiner procedure was included in the Department's Adopted Budget in Fiscal Year 2007-2008. Continued funding is included in the Adopted Fiscal Year 2008-2009 Budget.

During the initial phase-in period, it is not anticipated significant additional staffing resources will be needed on an ongoing basis from the Departments of Public Works, Fire, and County Counsel to attend the community public hearings. It is expected staffing expertise from these departments would only be needed to attend the community public hearings perhaps once every two months since most issues should be answered by the Subdivision Committee reports already provided through the existing review process.

However, after the initial phase-in period, a reevaluation will be made as to whether the hearing examiner procedure requires significantly more resources from the Department than is currently anticipated.

FACTS AND PROVISIONS/LEGAL REQUIREMENTS

This ordinance is necessary to conduct community-based public hearings on major land use projects and anticipated zoning changes, and amendments to the County General Plan or the Zoning Ordinance within the unincorporated County communities on a regular and consistent basis. The proposed ordinance is exempt from the California Environmental Quality Act based on Section 15061(b) (Chapter 3, Title 14, California Code of Regulations) because there is no possibility that the proposed procedural changes would have a significant effect on the environment (Attachment 2: Draft Ordinance).

IMPACTS ON CURRENT SERVICES (OR PROJECTS)

The proposed hearing examiner procedure will enhance the County's land use entitlement process and respond to the residents' desire for a more responsive government by providing public hearings in the community. The procedure will also add clarity to the land use entitlement process by establishing a threshold to identify the types of cases to be heard by the Commission versus the existing hearing officer. In addition, the procedure will promote efficient Commission public hearings by shifting minor cases currently heard by the Commission to the hearing officer. This will relieve the current work load of the Commission and allow the Commission to focus on issues with countywide impacts, such as General Plan Update, the Zoning Ordinance update, green buildings and affordable housing. Major cases will continue to be decided by the Commission; however, the cases would have had a local public hearing by the hearing examiner and an opportunity for staff to address issues and concerns raised by the community before the Commission public hearing leading to more focused and efficient Commission hearings.

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CONCLUSION

These proposed ordinance amendments establish the hearing examiner procedures as requested by the Board. The Department of Regional Planning has prepared an implementation plan and associated modifications to case processing necessary to enhance the ability of the public to be informed about proposed development projects. Having public hearings within the community will provide a convenient means for the public to participate in the decision making process.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'WTF', followed by a horizontal line and a small flourish.

WILLIAM T FUJIOKA
Chief Executive Officer

WTF:BWM
RDH:KMS

Attachments (3)

c: County Counsel